

April 15, 2005

Hon. Christopher Shays, Chairman
Subcommittee on National Security, Emerging Threats,
and International Relations

Dear Congressman Shays,

I would like to supplement my testimony given at the April 12 hearing of the House Committee on Government Reform, Subcommittee on National Security, Emerging Threats, and International Relations. Specifically, I would like to address some of the claims made by Thomas Schweich regarding the State Department's justifications for tolerating large-scale ongoing smuggling over the course of the Iraq sanctions regime.

The Duelfer report of the CIA's Iraq Study Group estimates that the illicit funds entering Iraq over the course of the sanctions regime totaled \$10.9 billion. Of this, the greatest portion by far—\$8 billion—came from smuggling through ongoing trade protocols, which had no relation at all to the Oil for Food Program.¹ The largest portion of the smuggling, in turn, was with Jordan and Turkey: illegal trade with Jordan is estimated at \$4.4² and illegal trade with Turkey is estimated at \$710 million.³

In the congressional hearings that have taken place over the last several months, it has become known publicly what research specialists have known for the entire Iraqi sanctions episode—that all three US administrations turned a blind eye to this smuggling, and in fact took efforts to prevent the imposition of penalties under US law.⁴

It is clearly a matter of some embarrassment to the State Department that in the face of accusations that the United Nations' Oil for Food Program allowed Saddam Hussein's regime to obtain billions of dollars in illicit funds, it turns out that the bulk of these illicit funds had nothing to do with the Oil for Food Program. What is particularly embarrassing is that the United States itself knew, approved of, and took efforts to protect the ongoing smuggling which generated the large majority of these funds.

¹ "Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD," 30 September 2004, "Regime finance and procurement section", p. 22-23.

² Ibid., p. 25.

³ Ibid., p. 26.

⁴ As Mr. Schweich explained in his testimony, since 1991, under federal law there have been restrictions on US assistance to countries not in compliance with Security Council sanctions against Iraq. However, all three administrations filed waivers with Congress throughout the history of the sanctions regime, finding that it was in the national interest to provide aid despite these violations.

In his testimony on April 12, Thomas Schweich of the State Department sought to justify this, insisting that the large-scale ongoing illegal trade that Iraq maintained with Jordan and Turkey was “in no way comparable to the kind of corruption, bribery, or kick backs” that have been investigated by this and other congressional committees.⁵

According to Mr. Schweich, the 661 Committee’s decision to turn a blind eye to Jordan’s smuggling was “not a back room deal.” Rather, he said, in 1991 Jordan sought relief under Article 50 of the UN Charter, and the Committee never acted. Consequently, Jordan informed the Committee that a loss of trade with Iraq would cause considerable damage to its economy, and simply notified the Committee that it intended to continue importing oil from Iraq. The Committee “took note” of this without objection, and asked Jordan to report on its trade. Thus, according to Mr. Schweich, “it wasn’t really secretive.” Similarly, according to Mr. Schweich, in 1996 Turkey requested Article 50 relief, also because of the consequences of sanctions on the economy.

The Jordanian and Turkish protocols were done to alleviate economic hardship, it was an exception to the sanctions regime because of the severe consequences that a failing Jordanian and Turkish economy might have on the world, it was done transparently, openly with the knowledge of the entire 661 Committee and the international community and for a valid purpose.

And to allow countries and individuals to equate that with the type of corruption that went on could seriously undermine our efforts to reform the UN that are going on now.

Other countries, such as Syria, did not receive similar relief, according to Mr. Schweich; Turkey and Jordan, by contrast, “came hat in hand, asked for Article 50 relief, and really did it by the book. Syria just engaged in massive fraud...”

Contrary to the State Department’s claims, the open smuggling was never considered legal. There was clear favoritism based upon US strategic alliances, not altruism or international law; and the US in fact blocked attempts to grant proper, transparent, legal relief under Article 50.

Jordan

In his 1996 article “How Legal Are Jordan’s Oil Imports from Iraq?”⁶, Dr. Paul Conlon, who also testified before this Committee on April 12, wrote about this issue in great detail. He noted that:

- When India made a similar request, citing the Security Council’s approval of Jordanian trade, it was rejected. In a formal opinion “of considerable precision

⁵ All quotes from Mr. Schweich are from the Federal News Service transcript of his testimony (unpaginated).

⁶ Florida State University Journal of Transnational Law & Policy, vol. 6 (Fall 1996).

and clarity” from the office of the UN’s Legal Counsel, “the Committee concluded that an exemption would be illegal.”⁷

- Although Jordan provided annual reports to the 661 Committee concerning its Iraq trade, by 1993 it was apparent that these reports were not truthful. Jordan’s official reports to the UN data base on world trade reported much higher amounts.⁸ An internal report regarding these discrepancies was circulated to multiple members of the 661 Committee, but the committee declined to discuss it.⁹
- Research conducted in 1994 indicated that “considerable manipulation was involved” in Jordan’s reports to the 661 Committee: Jordan’s actual oil imports from Iraq—according to Jordan’s own reports to other UN bodies—were 81% greater (in dollar value) than the amount it reported to the 661 Committee.¹⁰
- There in fact was no transparency on this issue. Some countries believed that the committee had actually granted Article 50 relief.¹¹ While the illicit trade was widely known, “[o]riginally, the pseudo-agreement’s existence was held to be a secret. It was never mentioned in any published UN document.”¹²
- The practice of “taking note” of Jordan’s practices, which occurred each year, had no basis in any relevant legal authority, either Article 50 or paragraph 23 of Resolution 687.¹³
- This arrangement continued well past any legitimate concerns with Jordan’s inability to obtain substitute oil supplies. Far from seeking alternate sources of oil, Jordan actually increased its dependence on Iraqi oil during the sanctions regime.¹⁴

In the case of Jordan, there was no transparency. An open secret of improper activities is not “transparency.” Nor could the Committee view this as legal, in light of the legal opinion stating strongly that it was not.

Turkey

In a letter dated August 5, 1996, Turkey submitted a formal request to the 661 Committee for relief, citing the economic hardship due to trade disruption with Iraq resulting from the sanctions. Turkey sought permission to resume oil imports, and to in turn provide Iraq with goods for the civilian population. Far from showing any willingness to acknowledge the legitimacy of Turkey’s complaint or to address it directly, the US delegate on the 661 Committee said in an August 1996 meeting (meeting no. 142) that

⁷ Ibid., p. 112.

⁸ Ibid., p. 115.

⁹ Ibid., p. 116.

¹⁰ Ibid., p. 117.

¹¹ Ibid., p. 118.

¹² Ibid., p. 115.

¹³ Ibid., p. 114.

¹⁴ Ibid., p. 116.

Turkey's request would compromise the integrity of the sanctions regime, and that the matter should be postponed to a later time. The issue was raised again, and again, and again—in meeting 143 (August 28, 1996); meeting 144 (October 14, 1996); meeting 145 (December 3, 1996); meeting 146 (December 18, 1996); meeting 148 (January 28, 1997); meeting 150 (February 21, 1997); meeting 151 (March 17, 1997); meeting 152 (March 24, 1997); meeting 155 (May 14, 1997); meeting 157 (June 11, 1997); meeting 159 (July 17, 1997); meeting 160 (August 27, 1997); meeting 166 (January 4, 1998); meeting 171 (May 12, 1998); meeting 172 (June 18, 1998); and meeting 176 (December 1, 1998).

As the issue dragged on for years, the US position remained unchanged. Again and again, the US delegate reiterated the same position: that the view of the United States had not changed, thus blocking any possibility of considering Turkey's appeal for relief in a public, legal, and transparent form.

It was the US who maintained that the Committee did not have authority to grant a sanctions exemption to Turkey—over the opposition of others on the 661 Committee. In one instance, the US objected to a French proposal that the Secretariat provide a report on the effects of the sanctions on neighboring states.¹⁵ The delegates from China and Bahrain spoke in support of the proposal. However, the US (joined by the UK) refused to agree, thus preventing consensus (effectively vetoing) even a request to the Secretariat to provide information on the impact of sanctions on Turkey and other nations.

I ask the Subcommittee to seriously consider the implications of this issue. Many in Congress and the administration have accused the United Nations of failing to take measures to stop Iraq from obtaining billions of dollars of illicit funds. The credibility of the UN has been irreparably compromised by these accusations, and many are now asking what the future of the United Nations will be, or are arguing that it should be abolished altogether.

What has emerged slowly, and with far less visibility, is in fact a much different picture than the accusations suggest:

- Of the \$10-20 billion of illicit funds, at most \$4.4 had anything to do with the Oil for Food Program. It was the responsibility of the Security Council and its members to address the smuggling, which constituted the great bulk of the funds
- The basic decisions that made possible many of the program's abuses—specifically, the decision to permit Iraq to choose its trade partners—were made by the Security Council, not the Secretariat
- As the role of the Security Council and its members have become clear, the US administration has responded by claiming that the US tried to

¹⁵ Meeting 171, May 12, 1998.

impose measures enforcing compliance, but was blocked by other nations on the Council through the consensus rule.

As I explained in my testimony, the consensus rule did no such thing. To the contrary—it required consensus to approve each contract. Any nation sitting on the Council had the power to block a contract, and the US did so in regard to \$5.4 billion of goods. However, on no occasion did the US choose to exercise this power to block contracts where there were kickbacks, even when explicitly informed of pricing irregularities indicating kickbacks.

It is now well known that the US not only ignored but in fact protected large-scale smuggling on the part of Turkey and Jordan. The current response of the State Department is that *this* smuggling was legitimate and transparent, unlike *that* smuggling, done by Syria, or other corrupt practices such as kickbacks and bribery. Such a claim seems quite absurd in light of the actual history of US policy choices.

In light of Dr. Conlon’s research, it is not correct to portray Jordan as being honest and above-board, when there was evidence from nearly the beginning that Jordan misrepresented its activities to the Committee on an ongoing basis. Indeed, it was Dr. Conlon himself who wrote the report informing the Committee of this.¹⁶

In the case of Turkey, it was precisely the fault of the United States that Turkey’s ongoing illicit trade was not granted any legitimacy. Whereas other countries on the 661 Committee repeatedly asked that Turkey’s appeal for relief under Article 50 be considered, and Turkey placed this on the Committee’s agenda over a dozen times, it was the United States (occasionally joined by the UK) that blocked the Committee from considering Turkey’s request.

In the cases of Jordan and Turkey, we are told that the US should not be accused of impropriety, on the grounds that these arrangements were transparent and honest. They were not.

The United Nations has been widely blamed for what has been described as a scandal of historic proportions. I know that this Committee is interested in understanding the truth of these events, in order that we may in the future be able to achieve greater accountability.

This Committee and the others in Congress that have inquired into the Oil for Food Program have held the United Nations to high standards to honesty and transparency. We should expect no less from the US government.

Sincerely,

Joy Gordon

¹⁶ “Data on Iraqi Trade/Rev.3,” memorandum dated 1 December 1993 from Paul Conlon to James C. Ngobi

